
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ONSET FINANCIAL, INC.,

Plaintiff,

v.

**WESTCHESTER FIRE INSURANCE
COMPANY,**

Defendant.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:16-cv-00063-JNP-PMW

District Judge Jill N. Parrish

Magistrate Judge Paul M. Warner

Before the court is Defendant/Third-Party Plaintiff Westchester Fire Insurance Company's ("Westchester") *Ex Parte* Motion for Order Authorizing Service by Other Means and for Extension of Time to Serve.¹ District Judge Jill N. Parrish referred the motion to Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(A).²

Pursuant to Rule 4(e) of the Federal Rules of Civil Procedure, the court may look to the laws of the states of Utah or Georgia for acceptable means of service of process in the instant case. Under rule 4 of the Utah Rules of Civil Procedure, a party may, upon court order, effect service of process "by publication or by some other means":

Where the identity or whereabouts of a person to be served are unknown and cannot be ascertained through reasonable diligence, where service of all the individual parties is impracticable under the circumstances, or where there exists good cause to believe that the person to be served is avoiding service of process.

¹ Docket no. 38.

² Docket no. 12.

Utah R. Civ. P. 4(d)(4)(A). Georgia appears to apply a similar standard for service by publication. *See* Ga. Code Ann. § 9-11-4 (West).

Based on the documents filed with the court, the court finds that Westchester has used reasonable diligence to locate and serve Third-Party Defendant Sondi Moore-Waters. There is good cause to believe that Dr. Moore-Waters is avoiding personal service. The court concludes that alternative service would most likely give notice to Dr. Moore-Waters.

Accordingly, Westchester's motion is **GRANTED** and Westchester may effect service of the summons and third-party complaint upon Dr. Moore-Waters by the following means:

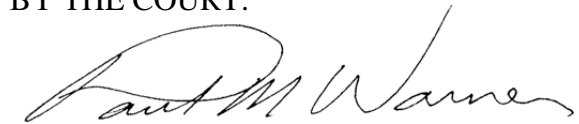
- (1) Publishing once a week for three consecutive weeks a notice of the above-captioned action in The Champion Newspaper; and
- (2) Mailing a copy of the summons, the complaint, this order, and notification of the dates of publication to Dr. Moore-Waters at Family Practice of Atlanta Medical Group, LLC at the address of 1670 Scott Boulevard, Suite 102, Decatur, Georgia 30333.

Westchester shall have sixty (60) days from the date of this order to serve the summons and third-party complaint. Service shall be deemed effected upon completion of the above-mentioned requirements. Westchester shall file proofs of service with the court.

IT IS SO ORDERED.

DATED this 16th day of November, 2016.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul M. Warner", is written over a horizontal line.

PAUL M. WARNER
United States Magistrate Judge